

Supreme Court hears arguments in Sakuma rest break case

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Washington State Supreme Court Chief Justice Barbara Madsen, center, questions an attorney Tuesday, March 17, 2015, at Heritage University in Toppenish, Wash. State Supreme Court justices who are being asked to require farmers to pay farmworkers additional money for rest breaks focused on how practical such an arrangement would be during a public session in central Washington. (AP Photo/Yakima Herald-Republic, Gordon King)

The Washington Supreme Court grapples with whether piece-rate farmworkers should be paid separately for rest breaks.

Washington Supreme Court justices Tuesday peppered lawyers with questions about farm practices and economic theory in a closely watched case that could dictate whether piece-rate farmworkers in the state will be paid separately for rest breaks.

An attorney for berry pickers at Sakuma Brothers Farms argued that workers should have an incentive to rest, knowing they will be paid based on how much they normally pick in 10 minutes. Piece-rate workers are paid based on how much they pick.

Sakuma, a berry growing and processing company in Burlington, Wash., asserts piece-rate pay compensates workers for rest breaks.

A ruling would likely set a precedent for other agricultural employers. Farm groups, business associations, labor organizations and civil rights activists have filed briefs with the court stating their positions.

The workers' attorney, Marc Cote, told justices that the rules that ensure paid breaks for non-agricultural employees should apply to piece-rate farmworkers.

Farm laborers in particular should have an incentive to rest because they do "grueling, physical work in the elements for hours at a time," Cote said.

Sakuma's lawyer, Adam Belzberg, said the company protects workers by summoning them out of the fields for mandatory rest breaks.

Justice Charles Wiggins asked whether workers are ever asked to skip breaks to get in rapidly ripening fruit.

"No, breaks are always taken," Belzberg said.

Cote said workers alleged in a federal class-action lawsuit that breaks weren't made available.

The case was settled out of court before a trial. Sakuma admitted to no labor violations.

Justices repeatedly turned to whether piece-rate pay actually covers 10-minute breaks every four hours.

Belzberg said piece-rate workers were "absolutely" compensated for rest breaks. He said paying workers separately would amount to "extra pay."

Cote said that even if paid rest breaks were somehow calculated into piece rates, workers still need separate compensation to ensure breaks are taken.

The dispute over whether the company enforces rest breaks and factors them in when calculating piece-rates highlights that the case went to the Supreme Court without an established body of facts determined at a trial.

A federal judge presiding over the class-action lawsuit referred the issue to the Supreme Court at the request of the workers. Chief U.S. District Judge for Western Washington Marsha Pechman ruled the question could impact thousands of workers and should be decided by the state's high court.

Supreme Court Chief Justice Barbara Madsen called the lack of a trial record "kind of a wrinkle in this case."

The court held the hearing at Heritage University in Toppenish. The justices usually convene in Olympia, but occasionally travel to give more people a chance to see a Supreme Court hearing.

If justices rule in favor of separately paid rest breaks, they must decide how pay will be calculated. Cote argued in favor of basing the pay on the speed of individual workers. Belzberg argued in favor of paying the state's minimum wage, or another wage set by the employers.